

WORKERS' COMPENSATION INDUSTRIAL COUNCIL

MAY 22, 2014

Minutes of the meeting of the Workers' Compensation Industrial Council held on Thursday, May 22, 2014, at 1:00 p.m., Offices of the West Virginia Insurance Commissioner, 1124 Smith Street, Room 400, Charleston, West Virginia.

Industrial Council Members Present:

Bill Dean, Chairman
Kent Hartsog, Vice-Chairman
James Dissen
Dan Marshall

1. Call to Order

Chairman Bill Dean called the meeting to order at 1:00 p.m.

2. Approval of Minutes

Chairman Bill Dean: The minutes of the March 6, 2014, meeting were sent out. Did everybody have a chance to look them over? Is there a motion to approve?

Dan Marshall made the motion to approve the minutes from the March 6, 2014 meeting. The motion was seconded by James Dissen and passed unanimously.

3. Office of Judges Report – Rebecca Roush, Chief Administrative Law Judge

Judge Rebecca Roush: I have tendered to you, in advance of this meeting, the report from our office for the month of April. Just a little update. . .this report is slightly different than the ones that we've previously done. The picture on the cover is actually our office. This is our waiting area. If you ever come to a hearing, that's where you sit before you are called for a hearing. Patty Fink, who puts together this report, thought that would be nice on the cover. The report itself – we've come up with a few more graphs to make it a little more user friendly. The content basically remains the same.

On the first page is the statistical analysis for the month of April. We acknowledged 348 protests for a total of 1,390 in the year of 2014. You can see the

breakdown between Old Fund, Private Carriers and Self-Insured Employers. Those numbers are trending, as you would expect them to be with the Old Fund on the decline making up only 9.93% of all the protests in our office. The small chart to the left with the pie is how that looks on a pie graph. On the right is a projected total with the numbers from the prior four years. This is a moving target. Obviously, we don't know what the number will be until the end of the year, but we're projecting fewer protests than the prior year. Right now we would estimate there will be about 4,200 protests in litigation for calendar year 2014.

The rest of the report essentially remains the same. One update that I will give you is with regard to Petitions for Attorney fees. On page 12 we've added this chart to distinguish between the two types of attorney fees that a Petition can be filed for in our office. The one at the top is the new law that went into effect in July where you can get \$500.00 fees and costs pursuant to §23-5-16(c). The graph below is for Petitions for Attorney Fees for Unreasonable Denials. As you can see, we've only received 28 Petitions for attorney fees from January through April of this year.

I'll give you an update on the Board of Review. A case went through their office on the matter of attorney fees. They did take an appeal on this new law. In this particular case the claimant's counsel requested, in addition to fees, his costs which included his mileage – not the claimant's mileage. It included his mileage and hotel coverage for attending a hearing in the Martinsburg area. [He was actually from Wheeling.] He requested [in addition to the \$500.00] \$419.25 for out of pocket expenses. That was denied by our office under our interpretation of the statute, which we took a literal interpretation in which it needed to be the claimant's costs. The Board of Review recently affirmed our Order, but one of the members [Jim Gray] filed a dissent, and his dissent says: "He would grant the claimant's counsel's request for reimbursement of costs in the amount of \$419.25. He finds that these qualify as reasonable costs within the meaning of the Code. The costs incurred by the claimant's counsel are the types of costs contemplated under this section. They are not fixed costs, such as filing fees in Circuit Court. Rather the Reviewing Body must determine the reasonableness of these types of costs. No party alleges that the costs in the instant claim are unreasonable. Claimant's counsel was awarded a fee of \$500.00 for his services. After paying for postage, a hotel room, and mileage, counsel nets \$80.75 for his services pursuant to the ruling herein. Such result may discourage counsel from representing claimants in proceedings relating to the denial of medical benefits, which is contrary to the purpose of the statute. The claimant's counsel's costs of \$419.25 are reasonable costs. It should be granted in addition to the attorney fee of \$500.00; provided that the claimant has reimbursed such costs to counsel or is obligated to do so pursuant to the terms of the representation agreement."

I bring this to your attention because I think this is a really important issue, and one that will be presented to the Supreme Court, although we don't know yet rather an appeal will be filed. We are debating at this time. . .or the Supreme Court will take into consideration whether the \$500.00 is all the claimant's attorney can receive or rather they, in fact, will be able to receive costs in addition to fees. It's a relatively a big deal. I throw that out there for your thoughts.

Do you have any questions regarding the Office of Judges or the data that I sent to you?

Chairman Dean: Questions, Mr. Dissen?

James Dissen: No, sir.

Chairman Dean: Mr. Hartsog?

Kent Hartsog: No.

Chairman Dean: Mr. Marshall?

Dan Marshall: No, Mr. Chairman.

Chairman Dean: You don't want to argue that attorney fee?

Mr. Marshall: I would have gone with the dissent.

Judge Roush: Thank you.

4. General Public Comments

Chairman Dean: We'll move onto general public comments. Does anybody from the general public have a comment today they would like to make? [No comments.]

5. Old Business

Chairman Dean: We'll move onto the Safety Study, Mr. Pauley.

Andrew Pauley, General Counsel, OIC: Mr. Chairman, members of the Council, I want to update you on the Safety Study which is due July 1st to the Joint Committee on Government and Finance [Legislature]. We've been working on the report, and the survey has been completed, and we've obtained the results in a "draft" report, which is being drafted and we are looking at that. We have a representative from WVU that worked on the report. We would like to discuss any further questions in regard to that in Executive Session because it is a "draft" at this point.

Chairman Dean: Very well.

Title 85, Rule 1 Amendments – Claims Management and Administration

Andrew Pauley, General Counsel, OIC: As you know, we've been discussing for several months the "Access to Justice Panel," Justice Benjamin's work at the State Bar. There was a petition made here to the Industrial Council concerning acknowledgement of attorney representation and acknowledgement of claims files. The Insurance Commissioner obtained informal comments on that issue and researched the issue; looked into the issue. You have in your packet an initial draft of a rule revision to Title 85, Series 1. I'll go over it briefly. I can go over it in more detail if you have questions. Just briefly. . .some feel it goes too far, but some feel it doesn't go far enough based on the comments. The comments were pretty far ranging.

We have a fairly unique system in West Virginia where Orders are sent out. There is a lot of paper created. Orders are sent out all the time when a decision is made by a carrier. It's not just at the end of a decision. It's anytime a carrier makes a decision on any aspect or component of a claim. So, there's a lot of paper created in a particular claims file. And that's one of the issues we struggled with on the claims file.

I'll start first with the attorney representation. I think Mr. [Bill] Gerwig's request had asked sort of a broad ranging request to acknowledge attorney recognition; order payment on any type of benefit check; and all of that to flow through the attorney's office. Our first and primary concern was that we obviously do not regulate attorney conduct. The Insurance Commissioner does not regulate attorney conduct. So, we declined to enter into the arena of attorney/client privileged contract between a client and an attorney. We do have a provision in the Rule which basically lays out that an attorney can file a notice of representation to the carrier, a self-insured employer, the Old Fund, and/or their third party administrator. And that must be acknowledged within 15 days. The carrier, self-insured employer, Old Fund, or the TPA would have to acknowledge that this "claimant now has an attorney." By acknowledging that, they

would agree prospectively to provide copies of relevant documents [in the claims file] that are not privileged or not protected by law that are relevant to the claim itself going forward.

The other request was to get a retrospective copy of a claims file – an older claims file. Many attorneys may want to look at the history of a claimant's claims to see if they are going to take the case or not, and that was one of the issues with Access to Justice – whether they could get representation. These are pre-protests. These are pre-litigation requests. The Office of Judges handles. . .when something is in litigation or in a protest, they handle discovery when you want particular documents. We are not really touching upon that. In this particular situation, from retrospective files, basically we leave that up to the carrier to provide that. But if it becomes too burdensome, too repetitive, too costly, they can resist it; unless it is subject to lawful subpoena in a court of law that requires them to provide it. And, again, this is pre-litigation. They would have to document that in a claims file and explain why they did not provide it.

We struggled with how that mechanism or that file could be charged, and we do allow a reasonable cost to be charged for these issues. Then we said, "Well, who is going to make these determinations?" Because in a rule it is going to be very difficult to put all these scenarios in a rule and have them completely clarified. The Office of Judges has graciously agreed to hear these pre-litigation issues. So, if there is a pre-litigation, a pre-protest issue – which we do not anticipate there being very many – but if there is, this would give jurisdiction [to the extent it's not already there] to the Office of Judges to hear these matters of concern.

The Rule clearly states that we do not regulate attorney conduct, and that has to be taken to another forum. Basically, that covers the overview of the Rule. It includes a waiver that says that no attorney/client privileged documents, any other privileged documents, confidential documents pursuant to federal or state law must be given out; anything that is protected does not need to be given out. We believe that is kind of a middle ground for the concerns that were exhibited. Obviously, the Commissioner's concerns are that the claimants have access and ability to do what they need to do, but it doesn't become an onerous or unfair burden to anyone that's operating within the confines of the system.

I can answer any specific questions you have on the Rule itself, and if you want to talk about procedure going forward on this, we can talk about that also.

Chairman Dean: Mr. Dissen, do you have any questions?

Mr. Dissen: Not on the particular changes on the Rule, but procedure, I would like to. . .

Mr. Pauley: Sure. I can go ahead and jump into that. You can do one of two things today. We're not really giving an opinion on that. You can approve this today going forward, sort of a green light. If it is green lighted by the Industrial Council, we would still have to get approval by our parent, Secretary of Revenue, and the Governor's Office. If we get approval, we can file it with the Secretary of State for a 30-day comment period. There will be a 30-day comment period. At the end of that comment period, we reserve the right to make changes based on those comments. Then we would bring a formal final Rule back to this body for approval. Same situation – Secretary of Revenue, the Governor will sign off on it, then it would be final filed. If the Council believes they need more time to look at this, you can lay this over today and vote at the next meeting on it. Either way, we do not have a position on that. You can vote on it today to green light it going forward or you can consider it for a month, or as long as you would like before moving forward with a green light vote, or a negative vote. This body does not have to green light the Rule. That is the procedure.

Chairman Dean: Mr. Hartsog, do you have any questions?

Mr. Hartsog: If we were to vote to file it with the Secretary of State today – and I assume that would happen – then after you got the “okay” from the Secretary of Revenue and the Governor's Office, then after we voted on any changes to this Rule, it would have to come back to us to be motioned to, and agreed to, subject to what we chose to do or what you all recommended to us. Correct?

Mr. Pauley: That is correct. You will have the benefit of any comments that were made from the public and why we made a change based on public comment, or we didn't make a change based on public comment.

Mr. Hartsog: Do you anticipate any changes to this from either of the reviews that it would go through before it gets filed?

Mr. Pauley: I don't want to rule anything out. I think we're probably reluctant at this point to go much farther than the way the body of this Rule. . .there may be technical cleanup. I'm not going to say the syntax is perfect. What you will be approving today – if you do approve it today – would be the overall concept and the thoughts there. There could be changes clearly, but not substantively.

Mr. Hartsog: Would it be simpler. . . maybe a little more efficient just to wait for us to approve it until you've incorporated everybody's thoughts into it and then come back to get it filed for public comment?

Mr. Pauley: If you don't green light it today, it's going nowhere.

Mr. Hartsog: What I was inferring was the. . . would it perhaps be a little bit more efficient just to wait until it undergoes the other couple of reviews and then come back to us to get filed with the Secretary of State? Or do you feel like it's just as efficient to do it this way and approve it today?

Mr. Pauley: With all due respect, I don't have an opinion on that. I mean. . . if you want it to move today. . . what would happen is if you approve it today, then it would go through that process of approval through our parent and the Governor's Office, and then it would be filed for comment with the Secretary of State. If you do not approve it today, then it's basically going nowhere. If you tabled it, then it would be taken up at the next meeting. Then you would determine if you wanted to take it up again or not.

Mr. Hartsog: Correct. But it would go on to get approved by the Secretary of Revenue, Governor's Office, and everything the next month so that at our next meeting we could do that. Correct? Is that not what you're saying?

Mr. Pauley: If you approve it. . .

Chairman Dean: It would be done today. If we don't approve it. . .

Mr. Marshall: Its dead I think if we don't approve it today.

Mr. Pauley: It's going nowhere until you approve it.

Mr. Marshall: Or we lay it other. . .

Mr. Hartsog: So it's not going to go for the other two. . . I gotcha. Okay. Thanks.

Chairman Dean: Mr. Marshall, do you have any questions?

Mr. Marshall: Just one question or comment. Is there any thought with the language in there about the fees and costs for the copies, etc.? You used the term "reasonable." I don't see a real problem, for example, with BrickStreet, by way of example. But some of these smaller carriers whose conduct actually gave rise [I think

more likely than not], to us considering these issues today. I can see being deliberately recalcitrant in using that as either a delaying tactic or some way to avoid the obligation that we're trying to impose today. Did you give any thought to that?

Mr. Pauley: We did. I think the thought was to give some latitude. For the due process purposes we're going to let the Office of Judges hear these, if someone feels like there is an unfair situation going on, such as you stated. The other thought is they will have to document this in their claims file. And, of course, we have the ability to examine companies. I suppose if there was an issue, such as you're stating, where there is a company that has a systemic issue of treating people unfairly or something to that extent, and they have some decisions possibly from the Office of Judges saying that, we can go in and examine that company and take care of it that way. It is difficult in a rule, and it's difficult in these scenarios because you may have a claimant with 20 prior claims and their medical records might fill up this room. And you may have someone that only has medical records that are this large. What is reasonable in one situation may not be reasonable in another. If someone is asking for that room full of records every month, or something like that, that may become unreasonable. And that was the thought process. If it's two or three pages, an inch of pages, then that's a whole different situation. It shouldn't be hard to prepare that information. The other understanding is that the company, the self-insured employer, whoever it is, may have to hire an attorney to look through that room full of records. It's got to be reasonable, but there are costs involved. And I'm not saying they are going to charge the attorney fees to look through the records. The point is it's very hard to define that in a rule – what's reasonable in a particular scenario.

Mr. Marshall: I appreciate what you said. By and large I agree with it, but you did raise another aspect. And that is some carrier out in Nebraska, or wherever they might be, deciding they have to employ counsel to go through the file. Normally whatever counsel they employed to deal with the claim, the clock would be running on them. And maybe we need to clarify either now or later that particular point here because I can't see where the claimant should be responsible for those counsels.

Mr. Pauley: That's traditionally like a loss adjustment expense. That wouldn't be factored in. But the cost to search for it, look at it, review it, copy it, etc. And we're not saying it's mandatory that it's charged, by the way. A point I need to make is that, from my understanding, a large share of the market is doing a lot of this already voluntarily. It's a best practice. Some companies, adjustors and TPA's will tell you that they would rather deal with an attorney than they would a claimant, if there is an attorney involved. Many of them are already providing copies of records or those kind of issues. We are putting this in, which is taking that step forward because there was some concern

exhibited. We do believe a large part of the market is already complying with what we are asking here today.

Mr. Marshall: I'm sure that's the case. The reason that we're probably acting at all is there are these outliers here who are not. And I think this rule is specifically. . . although it is universally applicable, it's particularly aimed at those folks. I certainly don't mind proceeding at this point, but I think at some point we may want to clarify that. Maybe that's best left to some experience, and seeing how it is handled by the Office of Judges. Other than that, I'm fine with moving forward.

Chairman Dean: Any other questions? Mr. Dissen?

Mr. Dissen: No.

Chairman Dean: Mr. Hartsog?

Mr. Hartsog: No.

Chairman Dean: Mr. Marshall?

Mr. Marshall: No.

Chairman Dean: Is there a motion to proceed with Title 85, Rule 1 Amendments?

Mr. Hartsog: One second. So, in the context with what he was just talking about, you're not assuming that this is going to create a lot more paper, copying, and flow than what already exists today, or the major carriers in West Virginia that you think are basically doing this anyway?

Mr. Pauley: I can't speak for the whole market, but I think for the most part they're acknowledging attorney representation, and they will provide information regarding a claimant if they have it, if it's not privileged, or if there is a notice of representation and an attorney says I'm looking at this particular situation. The issue becomes to what extent it is, and that's why it is harder to define that, and that's why we were trying more than anything else to get some access and some due process here so that the Administrative Law Judge can hear what is reasonable; rather than try to put an onerous burden particularly on someone that's not applicable. In some situations, to answer your question, it may increase costs and paper work. I can't promise that. I won't promise that to you, but we're not saying that's going to cause an increase across the board.

Mr. Hartsog: So you think most people, or the larger ones, based upon your contact with carriers, etc., is probably pretty much doing this anyway. I fully support providing the documents when they're needed. I just don't want to make it so that you're copying 10,000 sheets of paper that doesn't have a whole lot of value at the end of day.

Mr. Pauley: Sure. And that's the whole "reasonableness" thing and if it becomes over burdensome, which is really just taking a concept from litigation that's already in existence now. When you are in litigation if someone continues to ask for something that's too onerous, they can always go before a judge and the judge can always look at it and say, "No, I think you are entitled to it." Or they can say, "No, I do not think you are entitled to it. This isn't relevant to what you need." That's already a concept in litigation. This is going to be a small subset of cases where the protest hasn't been filed and the Office of Judges hasn't engaged the litigation at that point.

Mr. Hartsog: I'll be interested in the feedback from the carriers during the public comment period. Thank you.

Chairman Dean: Is there a motion to proceed with Title 85, Rule 1 Amendments?

Mr. Marshall: So moved, Mr. Chairman.

Mr. Dissen: Second.

Chairman Dean: A motion has been made and seconded. Is there any question on the motion? All in favor, "aye." All opposed, "nay." The aye's have it. [Motion passed on amendments to Title 85, Rule 1, Claims Management and Administration.]

Self-Insured Security Risk Pool and Guaranty Fund Financial Update – Melinda Kiss

Melinda Kiss, Assistant Commissioner, Finance: This Council had asked us for an update on the financial position of our self-insured funds that we have administrative oversight of here at the Offices of the Insurance Commissioner, and those are our Self-Insured Guaranty Fund and the Self-Insured Security Fund. You have a handout. We are going to start with the Guaranty Fund. With the Guaranty Fund there is no current assessment in place for the Self-Insured Guaranty Fund. The net position at the end of

our last fiscal year – that's from the audited statements – is about \$12.2 million dollars. We have assets of about \$14 million, and the total liabilities are about \$2.2 million.

One of things that the Council had asked about were the investments. The Self-Insured Funds – both funds are actually invested with the West Virginia Investment Management Board. They handle the bulk of state investments. They have the Teacher's Retirement, Judiciary Retirement, PERS – the Public Employees' Retirement System. They are very well structured and very experienced in handling public funds. I don't know if you follow the WVIMB, but they have won several awards for solid investment strategies, even in difficult times. We feel very comfortable with the investments that we have placed with them. Of course, the goal would be to have a little bit of growth in our assets; preserve the principle we've invested with them. Right now they have us in pretty much a basic 30/70 split – that's 30% to equity and 70% to fixed income, which does include your cash component. They review that. We go over this annually. Every year they come and meet with the Commissioner and me to talk about our cash flow needs; make sure they have got our investment allocations lined up so that we have adequate liquidity in the funds to meet our obligations. That's pretty much all on the investment piece.

The other item I think the Council was interested in was about the assessments and the outlook for the Self-Insured Guaranty Fund. If there are no new self-insured defaults that have exposure in the Guaranty Fund. . .of course, your Guaranty Fund covers the obligations of self-insured employers who default with claims liabilities after July 1, 2004. So, those are your more recent liabilities. If there are no new self-insured defaults that have exposure to the Guaranty Fund, we believe that fund is going to remain solvent for the foreseeable future, and that the net position is going to remain at the targeted and the designated \$10 million dollars or above. I think that's all good news with regard to the Guaranty Fund.

In your handouts, we put the Statement of Net Position. For those of you that didn't graduate in accounting in 2014 or 2013, that actually used to be a balance sheet. For reasons I can't really explain, they decided to rename it – it is now a "Statement of Net Position." But that is your balance sheet. We pulled that from the financial statements. If you look at the OIC's financial statements, both of those self-insured funds are combined for reporting purposes. So, what we did is just break them out as they are on the trial balance. We monitor them and account for them separately. So there is your balance sheet, and then you have your cash projection. It's a conservative estimate. But we are just running through the beginning market value of our fund, plugging in the revenues that we anticipate, the claims expense being paid out, any general and administrative, and the investment gains and losses. The investment rate

assumption we're using as we do our cash flow projections is 3%, which is the discount rate that is used in the financial statements for both the Self-Insured Guaranty Fund, and the Self-Insured Security Fund. Then we go through the projected payments and the liability for the next five or six years.

Onto the Security Fund – in our Self-Insured Security Fund we do have a deficit balance as June 30, 2013. It is a deficit of about \$2.5 million dollars. You will probably recall when Ms. Shepherd came to you discussing the assessment that we were putting in place, and giving you a heads up on that. We did have the defaults of several self-insured employers that have created the deficit situation, and I think you are well apprised on that, but if you have any questions in that regard we'll address those. Basically, the assets that we do hold – and we did of course convert security that we were holding in the Security Fund to cover those liabilities into cash – and that gave us about \$6 million dollars to start funding this Self-Insured Security Fund and to invest with the Investment Management Board. Hopefully, we can get some investment return and try to get to the point of solvency for the Self-Insured Security Fund, which is the goal. We do believe that the assessment that is in place currently, which is about \$1.2 million dollars annually, and that is allocated among the self-insured employers both active and inactive. We believe it is going to need to remain in place at least through 2018. At that point, based on the cash flow projections, if you assume no additional defaults by self-insured employers, the fund should return to solvency. And then at that point that assessment could be removed because you have adequate assets in place, and earned investment income on those assets to pay the claims liabilities of the Security Fund.

We have the June 30, 2013, Statement of Net Position. We have the cash flow statements. Again, those are conservative cash flows, particularly with regard to 2014. My bean counters downstairs always look at exactly the cash you have in or what you paid out at as a starting point when they annualize revenues for a year. In 2014 we have some of our self-insured employers who have requested, and we always allow that option, to pay their assessment on an installment basis. We have some installments that are coming due. Ms. Shepherd does anticipate that everyone is going to pay their assessment. And our collections look good because when they were pulling these numbers. . . I believe that was in March. It was the end of March because they were doing this in April anticipating we had the May 8 meeting, and we now are up to \$995 up already from your \$925. When they annualized it we've actually received more cash, so we're going to be a little bit conservative. Just to check and make sure I'm still on target, we are saying 2018 is when we would expect to see solvency. I went ahead and plugged in the \$1.2 million with the assumption that we are going to get every dime of the assessment this year, and you're still at 2018 as your year of solvency. You would

be earlier in the year. Somebody may question why you jump from \$925 to \$1.2, and the reason is they were using actual cash.

We can update, and probably will update this as we get our year-end done, and that would be an opportune time to do that. Basically, just to recap: The Guaranty Fund is good. It's solvent in their current assessments. The Security Fund does have the deficit balance. Both funds are with HealthSmart. They serve as the TPA for both of the funds, and do a good job with our claims handing. If there are any questions, I'll be happy to answer those.

Chairman Dean: Mr. Dissen, do you have questions?

Mr. Dissen: Not at this time.

Chairman Dean: Mr. Hartsog?

Mr. Hartsog: The Guaranty Fund, is that pre or post 7-1-04 claims?

Ms. Kiss: Guaranty is post.

Mr. Hartsog: Guaranty is post, okay. And the Security Fund is pre. On the Security Fund you mentioned that right now there is about a \$2.5 million dollar gap between total liabilities and assets.

Ms. Kiss: Yes.

Mr. Hartsog: Okay. Without having the opportunity to study this. . .and if you're getting in revenues of \$1.2 million a year. . .

Ms. Kiss: We have to pay the claims.

Mr. Hartsog: How does it take. . .

Ms. Kiss: Because you are paying the claims. You've got to pay out next year the actuarial payout, and that's actually a slide in there. I know you haven't had time to look at this. If you want to look at this and any additional questions I'll be happy to answer. The actuarial payout for 2015 is \$1.1 million in the claims. So, you're getting revenue in, but you're also paying it out, and we are trying to return to solvency; not just fund it for one year.

Mr. Hartsog: Okay. I'll look at it some more. Thanks.

Chairman Dean: Mr. Marshall, do you have any questions?

Mr. Marshall: Just one, Melinda. I probably misunderstood you. With respect to the Security Fund, I heard you say that the funds are with the Board of Investment, and then converted to cash. Then I thought you said we were going to put them back to the Board of Investment and try to earn some return. I'm trying to figure out why you totally converted to cash.

Ms. Kiss: Oh, we didn't. I apologize. We had security that we were holding. With the Security Fund one of the requirements [per the Rule] is you are supposed to collateralize or all self-insured employers are supposed to post security with Ms. Shepherd. She is extremely vigilant about that. After we do an evaluation or a determination of the projected reserves for each self-insured employer for their workers' compensation liabilities, they are supposed to keep security with Ms. Shepherd. They are supposed to put up a bond, a letter of credit; we are holding collateral. In the event of a default, we will exercise our right and convert the bond – I believe it was a bond. It was the main part of the proceeds. Wasn't it?

Angela Shepherd, Director, Workers' Compensation Self-Insurance: It was a T-Bill.

Ms. Kiss: We will convert a bond for cash and then we will invest it. We have to convert the security into a form that we can then invest on behalf of the Security Fund.

Mr. Marshall: That hasn't been done yet?

Ms. Kiss: Oh, it's been done.

Mr. Marshall: Where is that on the Schedule of Net Position? Is it in the cash?

Ms. Kiss: Yes.

Mr. Marshall: So, it hadn't been invested. . .

Ms. Kiss: It's invested. It's all cash and cash equivalent. I guess that probably does beg a question. We are what the Investment Management Board refers to as a "participant fund." All of our investments with them appear on our balance sheets or our financial statements in the category of "cash and cash equivalents."

Mr. Marshall: That closes it for me. Thank you.

Chairman Dean: Any other questions?

Mr. Marshall: No.

Chairman Dean: Thank you.

6. New Business

Chairman Dean: We'll move onto new business. Does anybody from the Industrial Council have anything they would like to bring up under new business? Mr. Dissen?

Mr. Dissen: No, sir.

Chairman Dean: Mr. Hartsog?

Mr. Hartsog: No.

Chairman Dean: Mr. Marshall?

Mr. Marshall: No, sir.

Chairman Dean: Commissioner?

Michael Riley, Commissioner, OIC: No, sir.

Chairman Dean: Mr. Pauley?

Mr. Pauley: No, sir.

7. Next Meeting

Chairman Dean: The next meeting will be Thursday, June 26, 2014, at 1:00 p.m.

8. Executive Session

Chairman Dean: The next order of business is the Executive Session. The next item on the agenda is related to self-insured employers. These matters involve discussion as specific confidential information regarding a self-insured employer that would be exempted from disclosure under the West Virginia Freedom of Information Act pursuant to West Virginia Code §23-1-4(b). Therefore it is appropriate that the discussion take place in Executive Session under the provisions of West Virginia Code §6-9A-4. If there is any action taken regarding these specific matters for an employer this will be done upon reconvening of the public session. Is there a motion to go into Executive Session?

Mr. Dissen: So moved.

Mr. Marshall: Second.

Chairman Dean: A motion has been made and seconded to go into Executive Session. Any question on the motion? All in favor, "aye." All opposed, "nay." The aye's have it. Motion passed. We will now go into Executive Session.

[The Executive Session began at 1:42 p.m. and ended at 1:45 p.m.]

Chairman Dean: We are back in regular session. Is there anything else that needs to be brought up before the Industrial Council today? I'd like to make note that there was nothing done in Executive Session. No action taken place.

9. Adjourn

Chairman Dean: Is there a motion to adjourn?

Mr. Marshall: So moved, Mr. Chairman.

Mr. Dissen: Second.

Chairman Dean: A motion has been made and seconded to adjourn. Is there a question on the motion? All in favor, "aye." All opposed, "nay." The aye's have it.

There being no further business the meeting adjourned at 1:46 p.m.